

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CV-67-F

WIDEWATERS VILLAGE COMMUNITY)
ASSOCIATION, INC.,)
Appellant)
)
v.)
)
THEODORE A. HAYWOOD and STACEY)
B. HAYWOOD,)
Appellees)

**DESIGNATION OF ITEMS TO BE INCLUDED IN RECORD ON APPEAL
TO THE FOURTH CIRCUIT COURT OF APPEALS
AND STATEMENT OF ISSUES TO BE PRESENTED**

NOW COMES Widewaters Village Community Association, Inc. ("Appellant"), by and through its undersigned counsel, and, pursuant to Rule 6(b) of the Rules of Appellate Procedure, hereby designates the items to be included in the Record on Appeal and provides a summary statement of the issues to be presented.

DESIGNATION OF ITEMS TO BE INCLUDED IN RECORD ON APPEAL

1. Docket Entries From District Court Case.
2. Designation Of Items To Be Included In Record On Appeal
And Statement Of Issues To Be Presented Filed With
The District Court on February 11, 2009.
 - a. Motion To Value Collateral And Determine Status Of
Claims filed November 5, 2008.
 - b. Response To Motion To Value Collateral And

Determine Status Of Claims filed November 10,
2008.

- c. Order Allowing Motion To Value Collateral And Determine Status Of Liens filed and docketed December 5, 2008.
- d. Notice Of Appeal filed December 15, 2008.
- e. Hearing Exhibit 1. North Carolina General Warranty Deed recorded in Book 11700, Page 1798, Wake County Registry.
- f. Hearing Exhibit 2. Ocwen Proof of Claim (\$250,989.46).
- g. Hearing Exhibit 3. Ocwen Proof of Claim (\$65,081.67).
- h. Hearing Exhibit 4. Widewaters Village Proof of Claim.
- i. Hearing Exhibit 5. Declaration of Covenants.
- j. Hearing Exhibit 6. Excerpt from Declaration.
- k. Hearing Exhibit 7 (first page only). Excerpt from North Carolina Planned Community Act.
- l. Hearing Exhibit 8. Deed of Trust recorded in Book 11700, Page 1788, Wake County Registry.
- m. Hearing Exhibit 9. Deed of Trust recorded in Book 11700, Page 1801, Wake County Registry.
- n. Hearing Exhibit 10. Deed of Trust re-recorded in

Book 11867, Page 2756, Wake County Registry.

- o. Hearing Exhibit 11. Deed of Trust re-recorded in Book 11867, Page 2733, Wake County Registry.
- p. Hearing Exhibit 12. North Carolina Deed of Trust and Assignment recorded in Book 12487, Page 473, Wake County Registry.
- q. Transcript of December 2, 2008 hearing.
- r. Email Transmitting Bankruptcy Record.

3. Order dated July 2, 2010.
4. Judgment dated July 2, 2010.
5. Notice Of Appeal dated July 16, 2010.

STATEMENT OF ISSUES TO BE PRESENTED

1. Whether the District Court erred by failing to conclude that the anti-modification provisions of 11 U.S.C. Section 1322(b)(2) apply to unsecured mortgages or liens, and upholding the Bankruptcy Court decision permitting Debtors to strip Appellant's lien and treat its pre-petition claim as unsecured?
2. Whether the District Court erred by upholding the Bankruptcy Court's decision that Debtors were not estopped from stripping Appellant's lien and treating its pre-petition claim as unsecured under the equitable doctrines of quasi-estoppel and estoppels by deed?

3. Whether the District Court erred by upholding the
Bankruptcy Court decision permitting Debtors to strip
Appellant's lien and treat its pre-petition claim as
unsecured?

This the 26 day of August, 2010.

HARRIS & HILTON, P.A.

By: 
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Counsel for Appellant

CERTIFICATE OF SERVICE

The undersigned, being first and duly sworn, deposes and says that he served a copy of the foregoing Designation upon all parties to this cause by depositing a copy thereof in the United States mail, first class postage pre-paid, and addressed as follows:

Mr. William S. Brewer, Jr.
619 N. Person Street
Raleigh, NC 27604
Counsel for Debtor

John F. Logan
Chapter 13 Trustee
P.O. Box 61039
Raleigh, NC 27661-1039

This the 26 day of August, 2010.



Nelson G. Harris